the pawnbroker is concerned all that this Court is bound to do is to see that in making the order which concerns him and against which he has appealed the Police Court was within its powers. Of that there can be no doubt and this point therefore fails.

Reasons 2 and 3 which complain that the ownership of the diamonds and the conduct of the owner were not investigated in any proceedings to which the applicants were party are not good reasons as I have already pointed out because the law does not require and indeed there is no provision for holding such a separate enquiry, the order being consequential upon the result of the trial of the thief and made upon the facts disclosed in the trial to which *ex necessitate rerum* the pawnbroker could not be a party.

Reason 4 that the evidence before the Court was not sufficient to support a finding that the diamonds pawned with the applicants were part of the diamonds is on a par with reason.

1. To allow it to be used by the pawnbroker would in fact be equivalent to allowing him when he is not a party to the proceedings against the thief to appeal in those proceedings.

For these reasons I think that this appeal should be dismissed.

Appeal Dismissed

Solicitors for the Appellants—*John G. Campbell & Co.*

Solicitors for the Owner—*Sisson & Delay.*

(Appellate Criminal Jurisdiction)

Murison C. J., Whitley and Terrell JJ.

December 19, 1932.

LAM FONG TZE.....Appellant

vs.

REX.....Respondent

(Singapore Magistrate's Appeal No. 58 of 1932)

Pawnbrokers—Magistrate's order—return of pawned property—strict proof of ownership and of unlawful pawning—Ordinance No. 61 (Pawnbrokers) Ss. 28-41.

Before a magistrate makes an order for the return of pawned property alleged to have been stolen he must have strict proof of ownership and of unlawful pawning.

The appellant was convicted on 16th November 1932 before A. C. Boyd Esq., Police Magistrate, Singapore, on a charge that he being the proprietor of Chop Wing Shin, on or about the 24th day of October 1932, at Singapore, did fail to give information at the nearest police station of possession of a gold wristlet watch after receiving a circular describing the said Wristlet watch and thereby committed an offence punishable under section 41(2) of Ordinance No. 61 (Pawnbrokers).

The accused was fined $50 or 1 month R. I.

When the case was called before the Magistrate, the accused (appellant) admitted the fact of possession of the watch described in a police circular issued under Section 41(1) and that the Circular was served upon him on 30th March 1932, that the watch in question was taken in pawn on 12th October 1932 and was found in his possession on 24th October 1932 and that he made no report.

Accused was convicted of a similar offence in March 1932.

The Magistrate after passing sentence as stated made the following order—"Watch to owner free of charge."

Campbell for Appellant. Pawns can only be dealt with under Ordinance No. 61 (Pawnbrokers). Power of Court laid down in Section 28. Court can act only on conviction for unlawful pawning under Section 31, conviction for theft or fraudulently obtaining goods or on it appearing in any proceedings before it that goods have been unlawfully pawned and proof of ownership. No conviction. No evidence of unlawful pawning and no proof of ownership.

Mc Elwaine, K. C. (Deputy Public Prosecutor.) Proof should have been given of ownership, theft and unlawful pawning.

Murison C. J. delivered the Judgment of the Court.

Murison, C. J.—"The appellant in this case was convicted under Ordinance 61 (Pawnbrokers) with having failed to comply with a circular requiring information as to certain property in his possession. On his conviction there was an order for the return of the property to the owner. The property in question was a watch.

The first ground of appeal concerns the question whether the words used by the appellant at the trial amounted to a plea of guilty. The record says 'Admit facts.' He said that he had a watch which answered the description in the circular but he also said that he had other watches of the same number as that given in the circular. Personally, I think that amounts to a plea of guilty, since he was bound to report possession of the watch in any case; nor does it matter that he had other watches with the same number. In my opinion there was a plea of guilty and the appeal, therefore, fails on that point.

The second ground of appeal is that the facts disclosed are not proof that the watch was unlawfully pawned. That may be so. I do not want to say much about that, but I will pass on to the third ground of appeal as to there being no proof of the ownership of the watch in question.

Proof of ownership is necessary under section 28 (1) of the Ordinance. It is very clear to me that in every case coming under that sub-section there must be strict proof as to who is the owner before any order can be made under it. There was no strict proof, but the Magistrate just ordered that the watch be returned "to the owner". That order was bad.

I do not need to go into the second ground of appeal as to whether there was unlawful pawning or not. I only say that there ought to be strict proof of that as well, and I express the hope that magistrates will note both of these points.

The result is that the conviction is upheld, and the order for the return of the watch must be cancelled. This order is without prejudice to any right of the Crown or of the Police.

Conviction upheld.

(Appellate Criminal Jurisdiction)

Murison C. J., Whitley and Terrell JJ.

January 14, 1933.

LAM LOCK ..... **Appellant.**

v.

REX (ROSY GEE) ..... **Respondent.**

(Singapore Magistrate's Appeal No. 60 of 1932)

Pawnbrokers Ordinance No. 61, Section 28-41—Criminal Procedure Code, Section 421.—Stolen goods pawned—Claims of owner and of pawnbroker.

The Pawnbrokers Ordinance is complementary to and does not oust, the provisions of the Criminal Procedure Code.

When a pawnbroker hands over property to the police which is suspected to have been stolen, the property may be taken before a Court.

The Court must satisfy itself by hearing evidence as to who is entitled to possession of the article, who is the owner and the circumstances under which the article was lost or found.

To do this the Court should procure the attendance of the pawnbroker under Section 28(2) and satisfy itself that the article was unlawfully pawned under Section 31(1).

Semble. The person claiming the article as against the pawnbroker should also be notified to attend the Court at the same time as the pawnbroker.

Rosy Gee reported to the police that she had on 13th November 1932 been robbed of a gold chain with a diamond and gold pendant attached.

The property was described in a police Circular issued on 15th November 1932 under Section 41 (1) of Ordinance 61 (Pawnbrokers).

The same morning the appellant brought the property to the police in compliance with Section 41 (2) of the said Ordinance.

The thief was not arrested.

On 18th November 1932 the police brought Rosy Gee and the appellant before the District Judge with a view to his making an order for the disposal of the property.

The appellant made the following statement to the District Judge.

"A Cantonese man pawned these articles. I did not know him. I do not dispute that they may belong to Rosy Gee.

As soon as I checked the property by the circular I brought it to the police station."

No other statement or evidence was recorded by the District Judge who made an order.—("Jewellery to complainant.")

In his grounds of decision the District Judge said

"(3) In coming to my decision I directed my attention to Criminal Procedure Code, Section 421 and to Section 28 (1) (c) of Ordinance 61 (Pawnbrokers).

(4) I believed the applicant who said that the article was hers and had been stolen from her and that the theft had been at once reported.

(5) Nothing was alleged about her conduct which justified me in refusing to return to to her her own property."

The pawnbroker appealed.

Campbell for Appellant. Police can deal with pawns only under Ordinance No. 61 (Pawnbrokers). No power of seizure except under Section 43 (2) which has no application to present case. Police have no power to take pawns which have come to their hands to a Criminal Court to have the Civil rights of the parties determined. The Police Court has no power to deal with a pawn under Section 421 of the Criminal Procedure Code. *Rex v. Yap To*, (1909), 11 S.S.L.R. 73.

Mc Elwaine, K. C. (Deputy Public Prosecutor) referred to *R. v. Chop Sum Thye* (1927). There were "proceedings" within the meaning of Section 28 (1) (c).

In handing the property to the police Appellant obviated the necessity for the Police to obtain a Search Warrant under Section 63 Criminal Procedure Code under which warrant the property must be brought before the Court.

Evidence should have been recorded of ownership, theft, and absence of authority from the owner to pawn the articles but it is clear such evidence would have been given had Rosy Gee been sworn.

Campbell in reply.

Cur. Ad. Vult.

Murison, C. J—I agree with the judgment of Whitley J. which I have read.

Whitley, J.—This was an appeal from an order made by the First Magistrate under section 421 of the Criminal Procedure Code that the Police officer who had seized a certain jade pendant should deliver the same to the applicant Rosy Gee.

It was agreed that no appeal lay in this case because it was not a criminal cause or matter and the case should be treated as on Revision under section 312 A. The